

ENTERED

May 14, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

JOE SHIELDS

Plaintiff.

VS.

GAWK INC.; SCOTT KETTLE;
KENNEDY WEAVER

Defendants.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. 3:18–CV–00150

**ORDER ADOPTING MAGISTRATE JUDGE’S
MEMORANDUM AND RECOMMENDATION**

Pending before the Court are Plaintiff’s Objections to the Magistrate Judge’s Memorandum and Recommendation (“Objections”). Dkt. 31. On February 28, 2019, all dispositive motions were referred to Magistrate Judge Andrew M. Edison pursuant to 28 U.S.C. § 636(b)(1)(B). Dkt. 21. On April 24, 2019, Judge Edison filed a Memorandum and Recommendation (Dkt. 30) recommending that Plaintiff’s 1st Amended Motion for Summary Judgment as to Defendant Kennedy Weaver (Dkt. 24) be **GRANTED IN PART** and **DENIED IN PART**.

On May 6, 2019, Plaintiff filed his Objections. In accordance with 28 U.S.C. § 636(b)(1)(C), this Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may

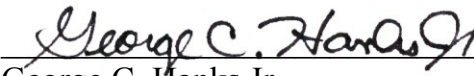
“accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* FED. R. CIV. P. 72(b)(3).

The Court has carefully considered the Objections; the Memorandum and Recommendation; the pleadings; and the record. The Court **ACCEPTS** Judge Edison’s Memorandum and Recommendation and **ADOPTS** it as the opinion of the Court. It is therefore **ORDERED** that:

- (1) Judge Edison’s Memorandum and Recommendation (Dkt. 30) be **APPROVED AND ADOPTED** in its entirety as the holding of the Court; and
- (2) Plaintiff’s 1st Amended Motion for Summary Judgment as to Defendant Kennedy Weaver (Dkt. 24) be **GRANTED IN PART** and **DENIED IN PART** and Plaintiff Joe Shields (“Shields”) be awarded \$500 in damages. Specifically, summary judgment is **GRANTED** as to Shields’ claim under Section 227(b) of the Telephone Consumer Protection Act (“TCPA”) and his claim under Section 305.053 of the Texas Business and Commerce Code (based on the alleged Section 227(b) violation). Summary judgment is **DENIED** as to Shields’ claim under Section 227(c) of the TCPA and Section 305.053 of the Texas Business and Commerce Code (based on the alleged Section 227(c) violation). Moreover, Shields’ request for injunctive relief is **DENIED**.

It is so **ORDERED**.

SIGNED at Galveston, Texas, this 14th day of May, 2019.



George C. Hanks Jr.
United States District Judge